IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

TUESDAY, THE 4TH SEPTEMBER 2007 / 13TH BHADRA 1929

OP.No. 8849 of 1997(C)

PETITIONER:

S.P.ARAVINDAKSHAN PILLAI, ADVOCATE, “SREEVILAS”,
COMBARA, ERNAKULAM, KOCHI – 14.

BY ADV. SRI.PIRAPPANCODE V.S.SUDHIR
SRI.SAJU JOHN
SRI.V.G.SANKARAN

RESPONDENTS:

1. STATE OF KERALA, REPRESENTED BY ITS CHIEF SECRETARY,
SECRETARIAT, THIRUVANANTHAPURAM.

2. SECRETARY TO GOVERNMENT, LOCAL ADMINISTRATION
DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM.

3. CORPORATION OF KOCHI, REPRESENTED BY ITS SECRETARY,
OFFICE OF THE CORPORATION OF KOCHI, NEAR
BOAT JETTY, ERNAKULAM, KOCHI – 11.

4. THE CHIEF TOWN PLANNER, OFFICE OF THE CHIEF TOWN PLANNER,
THIRUVANANTHAPURAM – 33.

5. K.K.IBRAHIM, PROPRIETOR, K.K.IBRAHIM LODGE,
MATHAI MANJOORAN ROAD, ERNAKULAM, KOCHI – 14,
RESIDING AT KORAVAMPARAMBIL HOUSE,
ST.ALBERT'S LANE, KOCHI – 31.

6. MRS. SAINABA, W/O.K.K.IBRAHIM, PROPRIETRIX,
K.K.IBRAHIM LODGE, MATHAI MANJOORAN ROAD, ERNAKULAM,
KOCHI – 14, RESIDING AT KORAVAMPARAMB IL HOUSE,
ST.ALBERT'S LANE, KOCHI – 31.

7. M.A.NAZAR, S/O.M.P.ABDUL KHADER, DELIVERY OFFICE,
FAST AND SAFE TRANSPORTS PVT. LTD.,
K.K.I.LODGE, MATHAI MANJOORAN ROAD,
ERNAKULAM, KOCHI – 14, RESIDING AT MANADATH HOUSE,
ST. BENEDICT ROAD, ERNAKULAM, KOCHI – 18.

R1, R2 & R4 BY GOVERNMENT PLEADER SMT. MEERA
SC FOR KOCHI CORPORATION SRI.K.ANAND
BY ADV. SMT.I.SHEELA DEVI
SRI.C.P.MOHAMMED NIAS

SRI.S.SREEKUMAR

R3 BY ADV. SRI.K.R.SUNIL
SRI.T.G.RAJENDRAN SC FOR K.S.E.B.

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 04/09/2007, ALONG WITH OP NO. 11597 OF 1997 THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1	TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER AND HIS WIFE BEFORE THE SECRETARY OF THE THIRD RESPONDENT, DATED 22.1.1996.
EXT.P2	TRUE COPY OF THE FORWARDING LETTER DATED 13.3.1996 ADDRESSED TO THE CHAIRMAN, STANDING COMMITTEE ON TOWN PLANNING, CORPORATION OF KOCHI BY THE PETITIONER.
EXT.P3	TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE STANDING COMMITTEE OF TOWN PLANNING, ON 5.8.1996.
EXT.P4	TRUE COPY OF THE COVERING LETTER CUM REPRESENTATION DATED 6.8.1996 ADDRESSED TO THE SECRETARY TO GOVERNMENT, LOCAL ADMINISTRATION DEPARTMENT SUBMITTED BY THE PETITIONER.
EXT.P5	TRUE COPY OF THE NOTICE NO.MOP 7-1328/96 DATED 7.9.1996 OF THE CHAIRMAN, STANDING COMMITTEE ON TOWN PLANNING AND HERITAGE, CORPORATION OF KOCHI.
EXT.P6	TRUE COPY OF THE NOTICE NO.MOP 7/1328/96 DATED 5.12.1996 OF THE CORPORATION TOWN PLANNING OFFICER ADDRESSED TO THE RESPONDENTS 5 AND 6.
EXT.P7	TRUE COPY OF THE LICENCE DEED EXECUTED ON 1.7.1996 BY THE 7TH RESPONDENT IN FAVOUR OF THE 5TH AND 6TH RESPONDENTS.
EXT.P8	TRUE COPY OF THE JUDGMENT OF THIS COURT IN O.P.19731/1996Y.
EXT.P9	TRUE COPY OF THE JUDGMENT OF THIS COURT IN O.P.NO.18937/97D
EXT.P10	TRUE COPY OF THE JUDGMENT OF THIS COURT IN O.P.NO.19531/96A.
EXT.P11	TRUE COPY OF THE JUDGMENT OF THIS COURT IN W.A.NO.471/97.
EXT.P12	TRUE COPY OF THE JUDGMENT OF THIS COURT IN WA.NO.288/97.
EXT.P13	TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER ALONG WITH HIS WIFE DATED 29.1.1997 BEFORE THE SECOND RESPONDENT.
EXT.P14	TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER ON 22.3.1997.
EXT.P15	TRUE COPY OF THE APPEAL DATED 7.12.1996 FILED BY THE RESPONDENTS 5 AND 6.
EXT.P16	TRUE COPY OF THE GOVERNMENT LETTER NO.37915/M1/96/LAD DATED 2.4.1997.

EXT.P17 TRUE COPY OF THE GOVERNMENT LETTER NO.37915/MI/96/LAD DATED 14.5.1997.

EXT.P18 TRUE COPY OF THE PETITION DATED 14.3.1996 SUBMITTED BY THE RESPONDENTS 5 AND 6.

EXT.P19 TRUE COPY OF THE GOVERNMENT LETTER NO.37915/M1/96/LAD DATED 22.5.1997 ADDRESSED TO THE RESPONDENTS 5 AND 6.

EXT.P20 TRUE COPY OF THE PETITION FILED BY THE SECOND PETITIONER'S IN O.P.NO.18937/96 BEFORE THE SECOND RESPONDENT DATED 19.5.97.

EXT.P21 TRUE COPY OF THE GOVERNMENT LETTER NO.22551/M1/97/LAD DATED 12.6.1997.

EXT.P22 TRUE COPY OF THE NOTICE NO.22551/M1/97/LAD DATED 13.6.1997.

EXT.P23 TRUE COPY OF THE PETITION SUBMITTED BY THE PETITIONER BEFORE THE GOVERNMENT DATED 24.6.1997.

RESPONDENTS' EXHIBITS: NIL

//TRUE COPY//

AHZ/

H.L.DATTU, C.J. & K.T.SANKARAN,J.

O.P. NO. 8849 OF 1997 C
and
O.P.No. 11597 of 1997 E

Dated this the 4th September, 2007

JUDGMENT

H.L.DATTU, C.J.

Petitioners in O.P.No.8849 of 1997 are the owners of 3.525 cents of land in Survey No.259/8 of Ernakulam Village. They have constructed a residential building in the aforesaid land.

2. In O.P.No.8849 of 1997, filed under Article 226 of the Constitution of India, petitioners primarily questioned the interim order passed by the State Government, dated 15.5.1997.

3. During the pendency of O.P.No.8849 of 1997, the respondent/ State Government has passed the final orders dated 22.5.1997.

4. In view of the final orders that are passed by the respondent/ State, in our opinion, the reliefs sought for in O.P.No.8849 of 1997 do not survive for consideration of this Court. Accordingly, the above Original Petition is disposed of as having become unnecessary.

5. Petitioners in O.P.No.11597 of 1997 call in question the final orders passed by the State Government dated 22.5.1997. By the said order, the State Government has confirmed the order passed by the City Corporation of Cochin.

6. Learned counsel, Smt.Shakkeela, appearing for the petitioners in O.P.No.11597 of 1997 informed us that during the pendency of the Original Petition, the petitioners had filed an application before the

respondents for regularisation of certain constructions said to have been made by them.

7. In view of the pendency of the said application before the competent authorities, it may not be necessary for us to express any opinion with regard to the correctness or otherwise of the order passed by the City Corporation of Cochin and also the order passed by the State Government. In view of the aforesaid orders, O.P.No.11597 of 1997 is also disposed of as having become unnecessary. However, liberty is reserved to the petitioners in O.P.No.11597 of 1997 to question the correctness or otherwise of the orders that may be made by the respondents on the application filed by thepetitioners in O.P.No.11597 of 1997 for regularisation of certain unauthorised constructions.

8. Liberty is also reserved to the petitioners in O.P.No.8849 of 1997 to question the correctness or otherwise of the orders that may be made by the respondents on the application filed by the petitioners in O.P.No.11597 of 1997.

9. Consequent to the order passed in the Original Petitions, all pending interlocutory applications are also rejected.

Ordered accordingly.

(H.L.DATTU)
Chief Justice

(K.T.SANKARAN)
Judge

ahz/

H.L.DATTU, C.J. &
K.T.SANKARAN, J.

O.P.NOs.8849 & 11597 OF 1997

JUDGMENT

4th September, 2007